

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JIM DESMOND,

CIVIL DIVISION

Plaintiff,

No: 2:09-CV-00034

vs.

THE HONORABLE GARY L.
LANCASTER

PHILLIPS & COHEN ASSOCIATES, LTD.,

JURY TRIAL DEMANDED

Defendant.

ELECTRONICALLY FILED

RULE 37.1 DISCOVERY DISPUTE CERTIFICATE

AND NOW, comes the Defendant, PHILLIPS & COHEN ASSOCIATES, LTD., by and through its counsel, MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN, P.C. and DANIELLE M. VUGRINOVICH, ESQUIRE, and files its Rule 37.1 Discovery Dispute Certificate as follows:

1. Phillips & Cohen propounded its First Set of Interrogatories, First Request for Production of Documents and First Request for Admissions on June 2, 2009.
2. Plaintiff provided responses thereto. However, in the Answer to Interrogatory No. 11, Plaintiff denied he saw any physicians, doctors, psychiatrists, psychologists, social workers or other medical and mental health professionals pertaining to the physical, medical or mental conditions, illnesses, stresses, injuries, limitations or disabilities alleged in his Complaint. *See, Plaintiff's Answers to Plaintiff's First Set of Interrogatories, First Request for Production of Documents and First Request for Admissions, attached to Motion to Compel as Exhibit "B."*
3. Clearly, Plaintiff was experiencing emotional distress prior to Phillips & Cohen's contact with him and he admitted that he treated with his primary care physician following the death of his wife in November of 2007.

4. He also denied that he is in possession, custody or control of any document pertaining to his medical records created by any health care provider regarding the physical, medical or mental conditions, illnesses, stresses, injuries, limitations or disabilities alleged in his Complaint. *See, Response to Request for Production of Documents No. 13.*

5. Additionally, Plaintiff denied possession, custody or control of any document responsive to the request for all documents to support his actual damages sustained as a result of Phillips & Cohen's conduct. *See, Response to Request for Production of Document No 16.*

6. On November 12, 2009, Phillips & Cohen requested that Plaintiff produce the records from Dr. Andrew Joseph. Initially, Plaintiff refused to do so.

7. On November 13, 2009, Plaintiff advised that he would produce Dr. Joseph's medical records if Phillips & Cohen did not contest his Motion for Leave to File an Amended Complaint.

8. Phillips & Cohen is not agreeable to Plaintiff's proposed resolution.

Respectfully submitted,

MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN, P.C.

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